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Current Topics.

Ambassadors.

In times of international stress the position of an ambassador is not always of the pleasantest. One of the essential qualifications of an efficient diplomatic representative is the obvious one that he should be a *persona grata* to the State to which he is accredited, and this in these days is not always easily attainable, as is again illustrated by the apparent hesitation of the Austrian Government about receiving Herr von Papen as the Ambassador of Germany. Whether that hesitation is or is not justified we do not pretend to know, but the law or custom relating to international relations is clear that the State to which an ambassador has been accredited has the right to reject any particular individual as being unacceptable to it, and with whom, therefore, it must decline to conduct negotiations. More than once in the history of diplomacy this right of objecting to a particular individual has been exercised either on political or personal grounds; for example, in 1833 Czar Nicholas declined to receive Lord Stratford de Redcliffe as our ambassador to the court of Russia. Again, if an ambassador intervenes in the political affairs of the State to which he is accredited he is given his passport as being no longer acceptable to that State. Considering the many complications in international relations, it is surprising to find so few incidents of this kind arising. The machinery of diplomacy may not be perfect, and its representatives are not immune from the errors of frail humanity, but, on the whole, the conduct of business between different nations has been carried on with a minimum of friction. As one writer of the past said, diplomacy, if it has not always been able to avert war, has at least made it a little more difficult.

The Minister of Health and a Clearance Order.

An interesting and important point relative to the position of the Minister of Health in confirming a clearance order under the Housing Act, 1930, was decided in *Re The Jarrow North Ward (No. 1) Clearance Order, 1933; Ex parte Errington and others* (reported *The Times*, 31st July, 1934). It had been contended at the local inquiry by the applicants that part of the property in the clearance area—of which they were owners—could be made fit for habitation by the execution of certain repairs which they were willing to perform, and which were agreed upon at a meeting of the medical officer of health and the applicants called by an inspector of the Ministry. Subsequently, as a result of correspondence between the Minister and the town council, who were still of opinion that a demolition order should be made, three members of the Minister's staff visited the district, inspected the area and interviewed certain members of the council who were to have formed part of a deputation to the Minister. The applicants were not notified of this visit and no opportunity of being present was afforded them. It was contended for the applicants that, in determining whether to confirm the order or not, the Minister was acting in a quasi-judicial character, and that it was not fair or just that the officials of the Ministry should interview the council or be informed of the opinions of persons not witnesses at the inquiry without giving the applicants notice and an opportunity of testing or contradicting the opinions put forward. Swift, J., intimated in the course of his judgment that the question was whether the Minister, in these circumstances, was a judge trying a *lis inter partes* or an administrative officer who could inform his mind in any way he pleased. If the latter, then, provided he acted within the terms of the statute and complied with the regulations laid down by Parliament to govern his conduct, he could arrive at his conclusions by any method he chose to adopt. Dealing with the statute the learned judge indicated that, if there were an objection to an order, both a public inquiry and a consideration of the report and of any objections must take place before confirmation. The Act did not say that the Minister might not take any further steps, or might not make inquiries as to the financial position of the council and other similar matters. His Lordship said that he thought the Minister was entitled to make such inquiries, personally or through his representatives, and the court could not question any order made after such inquiries, provided they were conducted fairly and honestly. The application was dismissed, the Minister not having done anything which the Act forbade or failed to comply with its requirements.

Construing an Act of Parliament.

The particular point decided by the House of Lords in *Assam Railways and Trading Company* v. *Commissioners of Inland Revenue* [1934] W.N. 168, involved the consideration of a wider question. An appeal from the Court of Appeal, which had dismissed an appeal from a decision of Finlay, J., was dismissed, and it was held that the appellants were chargeable to income tax in respect of a difference in the amount upon which they had been charged to Dominion or Indian income tax and that upon which they were charged to United Kingdom income tax. Section 27 of the Finance Act, 1920, provides: "If any person who has paid . . . United Kingdom income tax . . . on any part of his income proves . . . that he has paid Dominion income tax . . . in respect of the same part of his income, he shall be entitled to relief from United Kingdom income tax paid . . . by him on that part of his income at a rate thereon to be determined" as therein mentioned. "Paid" in that section meant, it was held, paid in fact, and the word could not be applied to amounts—namely, interest on debenture stock and profits from tea gardens—which were allowed as deductions from

assessable profits in India but not in England. On the wider question, it was held that a report of a Royal Commission on Income Tax in 1920 was inadmissible for the purpose of construing the Act of that year. Lord WRIGHT, who held that on principle no such evidence for the purpose of showing the intention, that was to say, the purpose or object of an Act, was admissible, expressed agreement with the observations of FARWELL, L.J., in *Rex* v. *West Riding of Yorkshire County Council* [1906] 2 K.B. 676—observations which were not affected by the reversal of the decision. "The court must, of course," the learned lord justice said, "in construing an Act of Parliament, as in construing a deed or will, do its best to put itself in the position of the authors of the words to be interpreted at the time when such words were written or otherwise became effectual; but this will no more justify us in admitting, as evidence on the construction of an Act, speeches in either House or subsequent statements in public papers, or elsewhere, of the effect of the Act than it would justify us in admitting on the construction of a will the advice given to the testator by his solicitor before, or the statements of himself or his expectant legatees of the effect of his will, after he had made it. The mischief sought to be cured by the Act and the aim and object of the Act must be sought in the Act itself. Although it may, perhaps, be legitimate to call history in aid to show what facts existed to bring about a statute, the inferences to be drawn therefrom are extremely slight, as is pointed out by Bramwell, B., in *Attorney-General* v. *Sillem* (1863), 2 H. & C. 431." FARWELL, L.J., concluded by saying that he thought the true rule was expressed with accuracy by Lord LANGDALE in the *Gorham Case* ("Moore," 1852 ed., p. 462): "We must endeavour to attain for ourselves the true meaning of the language employed assisted only by the consideration of such external or historical facts as we may find necessary to enable us to understand the subject-matter to which the instruments relate, and the meaning of the words employed."

Hearsay and Legitimacy Cases.

A FIRST decision on a principle of more than usual importance was made by Mr. Justice LANGTON in his recent judgment in the legitimacy suit of *Davey, A. H.* v. *Attorney-General* (*The Times*, 14th July). The question was whether the ordinary rule that "declarations by deceased relatives made *ante litem motam* are admissible to prove matters of family pedigree" (Phipson on Evidence, 7th ed., p. 297) applies to cases brought under the Legitimacy Act, 1926. The petitioner, who was born on 16th July, 1879, asked for a declaration that he was the son of the late C, a solicitor, and D, that his parents were lawfully married on 29th December, 1884, and that therefore by such marriage he became legitimated under the Legitimacy Act, 1926, as from 1st January, 1927. The respondents, who contested the petition, were the executors and trustees of C and the Attorney-General, the latter putting the petitioner to strict proof of his petition. The general evidence that C was the father of the petitioner, apart from documents of record such as certificates of birth, baptism and marriage, consisted to a large extent of statements said to have been made by persons now dead. His lordship said that the general rule as to the admission of hearsay evidence in legitimacy cases was based on the ground stated by Lord BLACKBURN in *Sturla* v. *Freccia*, 5 A.C. 623, at p. 641, "that they were matters relating to a long time past and it was really necessary to relax the strict rules of evidence for the purpose of doing justice." In his lordship's view the same conditions and the same urgency applied to matters of legitimacy as to questions of pedigree, and therefore the same exception as to admissibility of hearsay evidence should be allowed. Two objections had been raised by the Attorney-General. The first was that as the petitioner was illegitimate at birth, he was *filius nullius*, and therefore had no relatives. His lordship referred to *Doe d. Bamford* v. *Barton*, 2 M. & Rob. 28, *Doe d. Jenkins* v. *Davies*, 10 Q.B. 314, and *Murray* v. *Milner*, 12 Ch. D. 845 among other authorities, and held that it was a technical line of reasoning based on slender authority and ought not to prevail. The second objection related to a declaration of the deceased C, which was strongly relied on by the respondents but which the petitioner contended was *post litem motam*. Counsel for the Attorney-General argued that there could be no *lis* on the subject before the Legitimacy Act, 1926, but his lordship said he accepted the view expressed in *Shedden* v. *Patrick*, 1 Macq. H.L. 535, that the essential point to determine was whether a controversy had arisen which might bias the minds of declarants, and there was neither reason nor authority for limiting the meaning of the word *lis* in the way contended for on behalf of the Attorney-General. After examining the evidence his lordship made in the petitioner's favour the declaration asked for. Had any other decision been given much of the benefit conferred by the Legitimacy Act, 1926, would have been virtually abrogated, and it is a credit to our legal system that an old rule of evidence can be so satisfactorily applied to modern conditions.

Judicial Control of Executive Powers.

IT is refreshing nowadays to hear of a case in which the historic limits on the ever-increasing power of the executive are again emphasised. In *Rex* v. *Milk Marketing Board; Ex parte North* (78 SOL. J. 536), a Divisional Court consisting of the Lord Chief Justice, Mr. Justice AVORY and Mr. Justice MACKINNON unanimously made absolute a rule *nisi* calling on the Milk Marketing Board to show cause why a resolution of a tribunal appointed by the Board imposing a fine of £50 on a milk retailer for selling at a price below the prevailing price in his district should not be removed into the High Court in order to be quashed. The Agricultural Marketing Act, 1931, provides a scheme by which distributing organisations for specific areas ascertain the local prevailing price, and a price is then fixed at which milk may be sold within the area. The Lord Chief Justice said that, after careful consideration, he had come to the conclusion that the Milk Marketing Board was a body to which a writ of *certiorari* would lie for the reasons stated in *Rex* v. *Electricity Commissioners* [1924] 1 K.B. 171, where all the authorities were reviewed, and it was held that a writ of prohibition would lie to an executive body in so far as it exercised judicial functions. The milk retailer was required to attend a meeting of the Board. Before he arrived a "statement of facts" was circulated among the Board containing the case against the retailer. A further statement, based on an interview with the retailer, was given by a member of the Board. Neither of these statements were placed before the retailer, nor was he told that any statements had been made, and he was therefore not given a fair opportunity of correcting or contradicting them. The case, therefore, came within *Board of Education* v. *Rice* [1911] A.C. 179, where Lord LOREBURN, L.C., referring to the practice of imposing upon departments or officers of state the duty of deciding questions of law and fact, said: "They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view." The other members of the court concurred, Mr. Justice AVORY adding that the condition on the retailer's licence requiring the retailer not to sell under "the prevailing retail price in the district" was not necessarily too vague, a little elasticity being advisable in such conditions. Mr. Justice MACKINNON, however, thought that the wording was too vague, and that the Board should at least have complied with the maxim "*id certum est quod certum reddi potest.*" The case is a salutary and timely example of the manner in which the constitution safeguards the rights of the subject.

An Estate Agent's Right to Commission.

THE recent case of *Trollope* v. *Martyn* (78 SOL. J. 568), contains an important decision of the Court of Appeal upon the question of an estate agent's commission.

The right to remuneration will always depend ultimately upon the terms of the commission note. But in the absence of peculiarities there are certain general principles which govern these matters. Payment of commission is usually made to depend upon an actual sale. It is however a well-known rule in agency that the agent, after having completed his side of the bargain, is not to be deprived of his remuneration by reason of his principal's default. In the case of an estate agent, it is sufficient for him to produce a purchaser "able and willing to complete" upon the vendor's terms; as in *James* v. *Smith* [1931] 2 K.B. 317n., following *Green* v. *Lucas* (1875), 33 L.T. 584. If the vendor subsequently refuses to complete, the agent is entitled by way of breach of contract to a sum equal to the full amount of the commission: *Roberts* v. *Barnard* (1885), Cab. & Ellis 336.

It is a common practice for an agent to find a potential purchaser who accepts the vendor's terms, but "subject to contract." What is the position if, in such a case, the vendor refuses to sign the contract? It has been contended that the agent has no right to his commission because the purchaser's willingness is subject to contract, and that therefore he has not completed his bargain with the vendor. In several recent cases, however, where the price has been fixed by the vendor, the agent's right to remuneration has been allowed. In *Kinghan* v. *Simmons* (1931), "Estates Gazette Digest," p. 225, the vendor was asking £4,000 for certain property and employed the plaintiffs as his agents. The latter obtained an offer of £3,970 "subject to contract" which, with a reduction in the agent's commission of £30, was equivalent to the £4,000 asked for. The defendant refused to sign and sold the property elsewhere. A Divisional Court gave judgment for the plaintiff. "The agent," said Swift, J., "had done all that he had to do in finding an able and willing purchaser." This view was confirmed by a majority of the Court of Appeal (Greer and Maugham, L.JJ., Scrutton, L.J., dissenting), in *Trollope* v. *Martyn*, *supra*, affirming Horridge, J.: 50 T.L.R. 228. The plaintiffs were appointed the sole agents of the defendants for the sale of property at a fixed price and it was agreed that the usual scale of commission should be paid "in the event of this sale being satisfactorily completed." The plaintiffs found a potential purchaser who agreed with the vendor to buy the property "subject to contract." The vendor subsequently refused to proceed with the sale. It was held that the agents had completed their work under the contract and that the vendor impliedly agreed to do nothing to prevent completion of the sale. In the words of Greer, L.J.:—

> "the agreement meant that, if the purchaser from whom plaintiffs had obtained the offer for the property subject to contract was prepared to sign a contract in the terms required by the owners, they (the owners) would do nothing to prevent the satisfactory completion of the transaction so as to deprive the plaintiffs of the commission which the owners had agreed to pay."

Following Lord Esher in *Hamlyn* v. *Wood* [1891] 2 Q.B. 488, 491, which applied the rule in *The Moorcock*, 14 P.D. 64, as to implied terms, Greer, L.J., held that such an implication necessarily arose in considering the terms of the contract in a reasonable and businesslike manner.

It would appear from the authorities that no such implied term exists where the price is left open and not fixed by the vendor. The Court of Appeal decided in *Keppel* v. *Wheeler* [1927] 1 K.B. 577, that the agent has not completed his duties until the contract is signed. The defendants were employed by the plaintiff to sell certain property and procured an offer which the owner accepted subject to contract. Subsequently the agents received another and higher offer, of which they failed to inform the plaintiff, in the *bonâ fide* belief that they had performed their duties as agents. It was held not to be so. In the words of Bankes, L.J., at p. 586:—

> "their duty as agents did not terminate until the contracts were exchanged . . . It was their duty to communicate any offer which came to them larger or more satisfactory than the one which they had already submitted to their principal."

In view of this case, the decision of the Divisional Court in *Hankinson* v. *Vickers* (1931), "Estates Gazette Digest," p. 16, appears to be wrongly decided. The defendant was instructed to find a purchaser at no fixed price, and obtained an offer of £1,000, which was accepted subject to contract. The defendant thereafter sold the property elsewhere. The court held, per Swift, J., that the plaintiffs "had done all they were employed to do," and were entitled to their commission. In *Raymond* v. *Wooten* (1931), 47 T.L.R. 606, the Divisional Court followed *Keppel* v. *Wheeler*, *supra*, without having to differentiate between a fixed and open price. The agency was at large, and the plaintiff, as agent, obtained subject to contract an offer which the defendant as vendor accepted. Subsequently the vendor obtained a fresh offer of a larger price from another firm of estate agents. The court held that the agent could not recover. "The plaintiff," said Charles, J., "had not completely performed his duty to the defendant until a binding contract had been entered into. He therefore could not recover commission."

It is immaterial whether the term "subject to contract" is imposed by the purchaser or vendor; see Horridge, J., to this effect in *Trollope* v. *Martyn*, *supra*, at p. 229. The agent's duty cannot be completed until he has brought the purchaser and vendor together *ad idem*. Where the price is not fixed, he has the additional duty of informing the vendor of the highest offers received. In consequence his duty cannot be completely performed until the contract has been signed.

Work and Materials.

AN interesting point as to the distinction between a contract for sale of goods and a contract for work and materials arose in the case of *Robinson* v. *Graves* (78 SOL. J. 536), an action which was tried before Mr. Justice Acton on 9th July. It is well settled that a contract for work and materials does not fall within s. 4 of the Sale of Goods Act, 1893; a contract for the sale of goods, on the other hand, if of the value of £10 or upwards, falls within that section, and is not enforceable by action unless there has been acceptance of part of the goods, something given in earnest, part payment, or a note or memorandum in writing. In *Robinson* v. *Graves*, the plaintiff claimed 250 guineas, alleged to be the agreed price of the portrait of the defendant's fiancée, whom the defendant had since married. The learned judge accepted the evidence of the plaintiff that the defendant had agreed that the plaintiff should paint the portrait for 250 guineas, but held that the contract fell within s. 4, and that therefore, there being no note or memorandum or other evidence sufficient to satisfy the section, it was not enforceable by action.

The general principles of the law applicable to this question were settled in *Lee* v. *Griffin*, 30 L.J. Q.B. 252, decided in 1861. It was there held that a contract to make a set of artificial teeth to fit the mouth of a patient was a contract for the sale of a chattel, and therefore within the seventeenth section of the Statute of Frauds (re-enacted in s. 4 of the Sale of Goods Act) and a count for work, labour and materials was not sustainable. Mr. Justice Blackburn thus stated

the rule: "If the contract be such that it will result in the sale of a chattel, the proper form of action, if the employer refuses to accept the article when made, would be for not accepting. But if the work and labour be bestowed in such a manner as that the result would not be anything which could properly be said to be the subject of sale, then an action for work and labour is the proper remedy. An attorney employed to draw a deed is a familiar instance of the latter proposition; and it would be an abuse of language to say that the paper or parchment of the deed were goods sold and delivered." The actual decision in *Lee* v. *Griffin* left it open whether the fact that the amount of skill and labour exerted far exceeded the value of the materials used might affect the question of whether or not there was a contract of sale. In argument, Crompton, J., said: "Assuming that to be the test, there can hardly be said to be more skill in fitting teeth than in fitting a pair of breeches"; and he appears to have rested his judgment upon the ground that this particular contract was not one where the skill to be used was the main subject matter, and the materials merely ancillary. He expressly left open the case where the materials were merely ancillary. Blackburn, J., however, said: "I do not think that the relative value of the labour and of the materials on which it is bestowed can in any case be the test of what is the cause of action; and that if Benvenuto Cellini had contracted to execute a work of art for another, much as the value of the skill might exceed that of the materials, the contract would have been the less for the sale of a chattel." Blackburn, J., succeeded in distinguishing the earlier case of *Clay* v. *Yates*, 25 L.J. Ex. 237; 1 H. & N. 73, but his observations are hard to reconcile with what was there said in the Court of Exchequer. In that case, it was held that a contract for the printing of a book was not within s. 17 of the Statute of Frauds, being one of work and labour, and not of goods sold. Pollock, C.B., said: "But it seems to me the true rule is this, whether the work and labour is of the essence of the contract, or whether it is the materials that are found. My impression is, that in the case of a work of art, whether it be silver or gold, or marble or common plaster, that is a case of the application of labour of the highest description, and the material is of no sort of importance as compared with the labour; and therefore that all this would be recoverable as work and labour and materials found." Martin, B., said (1 H. & N. at p. 76): "Suppose an artist paints a portrait for 300 guineas, and supplies the canvas for it, worth 10s., surely he might recover on a count for work and labour." The judges in *Lee* v. *Griffin* clearly thought that *Clay* v. *Yates* went a little far, but distinguished it upon the ground that if the book had been delivered, there would not have been a sale of a chattel; and Hill, J., pointed out that the printer could not sell the book to anyone else.

In *Robinson* v. *Graves*, Acton, J., with apparent regret, regarded himself as bound by the view expressed by Blackburn, J., in *Lee* v. *Griffin*, and held that the contract for the painting of a portrait was within the section. It seems, therefore, that the *dicta* in *Clay* v. *Yates*, cited above, can no longer be regarded as good law.

Company Law and Practice.

What is a Company?

Let us look this week and see if we can discover what a company is. To some of my readers it may occur that the affairs of companies are discussed week by week, year in, year out, in this column, and that it is perhaps rather unfortunate that this discussion should have continued for so long without any clear idea of what it is that is being discussed. But this would not be perhaps a very fair criticism, for the kind of company we are discussing in this column is usually a company limited by shares and registered under one or other of the various Companies Acts. These I am not proposing now to deal with, but I want to consider one or two questions which may arise as to the meaning of the word "company."

Let me say at the outset that I am not going to consider now what meaning the word "company" may bear in a will or codicil. It is a topic entirely outside my scope, and I only mention it to remind my readers that they will find some discussion on the construction of it in an investment clause in a will in the case of *Re Stanley* [1906] 1 Ch. 131. This is a decision of Buckley, J., and is, therefore, of unusual interest in such a connection. But there are at least two places in the Companies Act, 1929, where reference is made to "companies, whether companies within the meaning of this Act or not," and it is these references that I think may be usefully examined for a few minutes.

The first of such references to which I crave attention is that contained in s. 234. This is the section to which the sidenote is "Power of liquidator to accept shares, etc., as consideration for sale of property of company," which will be sufficient to remind my readers of its scope. It applies where the whole or part of the business or property of a company is proposed to be transferred or sold to "another company, whether a company within the meaning of this Act or not." A company within the meaning of the Act is, of course, a company formed and registered under the Act, or under the Joint Stock Companies Acts, the Companies Act, 1862, or the Companies (Consolidation) Act, 1908—except companies registered in Northern Ireland or the Irish Free State.

The words which include within the scope of the section companies not being companies within the meaning of the Act are inserted in the section so as to preclude the possibility of it being held again, as it was under the 1908 Act, that only companies within the meaning of the Act were within the scope of this section (*Thomas* v. *United Butter Companies of France Limited* [1909] 2 Ch. 484). It is a matter of past history, and we cannot now pause to consider how it was that that decision came to be given, though some day it might properly and usefully be taken as the text of an article designed to show what great care is needed in inserting into a code some fresh provision designed to clarify it, for such an insertion may well have quite unintended repercussions. Anyhow, the question is now raised as to what is a company, not being a company within the meaning of the Act. The answer seems to be clear that a foreign company is such, though it may not always be easy to say whether any particular foreign entity is a company or not; in the vast majority of cases there is not likely to be much difficulty.

But this can hardly exhaustively define what is meant by "companies, not being companies within the meaning of the Act," and I should like to turn to another section before further examining this point. This other section is s. 356, the "share-hawking" section. This section makes unlawful house-to-house offering for subscriptions or purchase of shares, and also the offering for purchase of shares in writing in certain circumstances. In the section, unless the context otherwise requires, the expression "shares" means the shares of a company, whether a company within the meaning of the Act or not, and includes debentures and units. These latter are more elaborately defined, but such definition need not here trouble us.

Again, this section obviously includes shares in foreign companies; but what else? Does it, for instance, include debentures of a society registered under the Industrial and Provident Societies Acts, or shares in a building society? To the former question the answer appears to be in the negative, though it is arrived at in a somewhat roundabout fashion. First of all let us look at *Smith* v. *Anderson*, 15 Ch. D. 247, where there is a certain amount said about the meaning of the word "company" in another section of the Act, that one

which says that no company, association or partnership consisting of more than twenty persons should be formed as therein mentioned. James, L.J., says in that case, that he cannot understand what the difference is between a company and an association. Then he goes on to say (p. 273): "A company or association (which I take to be synonymous terms) is the result of an arrangement by which parties intend to form a partnership which is constantly changing, a partnership to-day consisting of certain members and to-morrow consisting of some only of those members along with others who have come in, so that there will be a constant shifting of the partnership, a determination of the old and a creation of a new partnership, and with the intention that, so far as the partners can by agreement between themselves bring about such a result, the new partnership shall succeed to the assets and liabilities of the old partnership."

Taken by itself, I think that definition might be thought to include certain entities which are not within it, and it is quoted more for the purpose of reminding my readers that it should be treated with some measure of caution. Now turn to *Great Northern Railway Co.* v. *Coal Co-operative Society* [1896] 1 Ch. 187. That is a decision to the effect that a society registered under the Industrial and Provident Societies Acts is not a company at all. The decision is not directly on the construction of the Companies Acts, but on s. 17 of the Bills of Sale Act (1878) Amendment Act, 1882, and arises out of a consideration of the question as to whether or not debentures issued by a society registered under the Industrial and Provident Societies Acts need registering. It is, however, useful in connection with the point we are considering, and for this reason, that it does show that, in the opinion of Vaughan Williams, L.J., such a society is not a company at all.

The facts in that case were that the defendant society (which was registered in the manner mentioned) issued debentures purporting to contain a charge by way of floating security; and it was contended that such debentures ought to have been registered as bills of sale, and were not within the provisions of s. 17 of the Bills of Sale Act, 1882. This latter section provides that nothing in that Act should apply to any debentures issued by any mortgage, loan or other incorporated company. Vaughan Williams, L.J., held that they were not within s. 17 and that they ought accordingly to have been registered.

The views of the learned judge so far as material for this purpose can be given by a short quotation from his judgment at p. 194: "I should prefer to base my decision," says the learned judge, "on the simple ground that s. 17 excludes companies from the operation of the Act of 1882, and that this is not a company, but a corporation which bears the name of a society. The word 'company' has come to have a very well recognised meaning. There are various legal companies, but this industrial society does not come within the connotation of that word in any of its accepted legal meanings."

This decision was followed in *Re North Wales Produce and Supply Society, Ltd.* [1922] 2 Ch. 340, another case of an industrial society which had issued debentures. This latter case furnishes rather an interesting decision on another point, to which I will refer, though it forms no part of the subject-matter of our enquiry to-day. It follows from the *Great Northern Railway Case*, to which I referred above, that the debentures of such a society are invalid so far as they concern personal chattels; then what is the effect if the debenture merely contains a general charge in wide terms? Is the whole charge bad, or can you separate the sheep, in the shape of freeholds, leaseholds, etc., from the goats, in the shape of personal chattels? It was held that the separation is proper, and that the debenture created a valid charge on the property of the society except its personal chattels.

But we must return to our enquiry as to companies not being companies within the meaning of the Act. Can we get any help from s. 337? I think we can indirectly. That section only defines "unregistered company" as used in Part X of the Act, but it can put one on the scent. Thus a perusal of it convinces me that, among companies not being such within the meaning of the Act, one must put—

(1) companies incorporated by Royal Charter;

(2) companies incorporated by Act of Parliament;

(3) companies registered in Northern Ireland or the Irish Free State under the Joint Stock Companies Acts, the Companies Act, 1862, or the Companies (Consolidation) Act, 1908.

This, I feel, might make rather a fascinating game, and those of my readers on whom the vacation has begun to pall might try to compile a list, and see how many they can get on it. I fear, however, that the Editor of this Journal being of a somewhat conservative disposition, is not likely to offer any prize for the longest list. In conclusion, let me give you a tip. Neither a building society nor a friendly society can, I think, be eligible for the list, if you apply the *Great Northern Case* by analogy.

A Conveyancer's Diary.

I have had a somewhat interesting point put to me which seems to be worth while considering.

The Liability of a Mortgagee by sub-demise. Vesting of a Nominal Reversion.

There was a "pre-war" (that is pre-1926) mortgage of leaseholds by sub-demise. The mortgagor declared that he held the reversion for the mortgagee *simpliciter*. Before 1926 the mortgagee sold the term but did not transfer the benefit of the declaration of trust.

I am told that the opinion has been expressed that s. 142 of the L.P.A., 1925 (re-enacting old law), applies so as to vest the benefit of the trust in the purchaser without mention, and that consequently the purchaser took the whole term.

It is true that there may be a vesting of the whole term under 1st. Sched., Pt. II, of the Act, but that I will consider presently. The question for the moment which rather concerns me is whether s. 142 has any, and if any what, effect.

It will be borne in mind that the section is by no means new. In fact it is very old law, reproducing s. 2 of 32 Hen. 8, c. 34, and the C.A., 1881, s. 11.

The section reads:—

(1) The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and so far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to, and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise; and if and so far as the lessor has power to bind the person from time to time entitled to that reversionary estate, the obligation aforesaid may be taken advantage of and enforced against any person so entitled.

Pausing there, I may say that under the old law it did not appear that a mortgagee by sub-demise was liable for breach of the covenants in the lease merely because the whole of the mortgagor's term had been vested in the mortgagee. Nevertheless, the lessor's covenants bound the reversion. At the same time it would appear that now s. 142 has the effect of vesting in the mortgagee the benefit of the declaration of trust and, as we shall see, the result of that might be very unfortunate for the mortgagee.

To return to the section and set out the remaining sub-sections of it, which have some importance:—

(2) This section applies to leases made before or after the commencement of this Act, whether the severance of the reversionary estate was effected before or after such commencement: Provided that, where the lease was made before the 1st day of January, 1882, nothing in this section shall affect the operation of any severance of the reversionary estate effected before such commencement. This section takes effect without prejudice to any liability affecting a covenantor or his estate.

I do not think that I need comment on these sub-sections. They give effect to the old law, but as under the C. A., 1881, only leases made after the commencement of that Act, with the result that a severance of the reversion as to leases made before that date was left as it was before it was considered desirable to make the section apply to all leases whenever made and so restore the Act of 1540, but so that the effect of a severance of the reversion before 1882 is not altered. If that had not been done it might well be that right of parties already might have been diverted.

I do not know that it was ever intended that s. 142 should apply to mortgage terms, although read strictly it no doubt does. The words, "The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease" are not very apt in that connection. It may, however, be that it would be held that the section covers mortgage terms as well as any other sub-demise.

I will now turn to the L. P. A., 1st Sched., Pt. II, and the L. P. (Amend.) A., 1926.

These will be familiar to the reader, but why the Amendment Act was framed as it was I have never been able to understand. The effect of the provisions as amended is well exemplified in *Peachy* v. *Young* [1929] 1 Ch. 449.

A in 1926 had become entitled to a sub-term in certain mortgaged leasehold premises acquired by purchase by a predecessor in title from a mortgagee.

The original mortgage was made in 1848, and contained a covenant by the then mortgagor with the then mortgagee, his executors, administrators and assigns (*inter alia*) for further assurance of the nominal reversion in the three outstanding days in the head lease thereby mortgaged, if required. In the head lease there were covenants by the lessee for repair of the property. The freehold of the property ultimately became absolutely vested in the plaintiff for an estate in fee simple. A had gone into possession of the mortgaged premises but relinquished such possession before the trial of the action.

The plaintiff alleged that there had been breaches of the covenant for repair contained in the head lease, and claimed damages against A. It appeared that the nominal reversion had never been got in by anyone, and A alleged that as there was no priority of estate between him and the plaintiff, he could not be held liable under the repairing covenant in the head lease. It was contended, however, by the plaintiff that having regard to the fact that A, by reason of the covenant for further assurance contained in the mortgage, was a person "entitled to require a legal estate to be conveyed to or otherwise vested in him" under 1st Sched., Part. II, para 3, of the L.P.A., 1925, such legal estate, namely the nominal reversion, vested in him by para. 6 (*d*) of Pt. II and rendered him liable on the repairing covenant contained in the head lease.

It was held by Tomlin, J., that on the facts of the case A was liable by reason of the operation of the 1st Sched., Pt. II, paras. 3 and 6 (*d*), of the L.P.A., as a person entitled to require a legal estate to be conveyed to or otherwise vested in him; and further, that he had not availed himself of the provisions of the schedule to the L.P. (Amend.) A., 1926, enabling persons to disclaim the vesting of any legal estate affected by onerous covenants.

Why the Amendment Act was framed as it was I have never understood. Few mortgagees could even know of it or realise the necessity of a disclaimer which indeed should never have been required. But so it is!

Landlord and Tenant Notebook.

Effects of Encouraging Expenditure.

A LANDLORD entitled to re-enter can signify his election in no better way than by issuing a writ for possession. The surest way of losing his advantage is, of course, to accept money paid as rent. Various other possibilities lie between these two extremes. For example, the tenant may spend money on the premises to the landlord's knowledge. If that is all, the landlord may watch the proceedings, possibly with malicious joy, and pounce when he considers fit; but if the tenant can satisfy the court that the landlord has encouraged him, forfeiture has been waived.

Encouragement is not always easy to prove. In *Doe d. Shephard* v. *Allen* (1810), 3 Taunt. 78, the covenant and condition broken was one not to permit any person to inhabit the premises who might carry on the trade of a butcher. The defendant, an undertenant, divided the place into two parts, one of which he sub-let to a butcher. The plaintiff, the superior landlord, who lived next door, saw the builders at work effecting the conversion, and knew what it was about. If he had since accepted rent from the mesne tenant, the defendant was unable to prove it. And it was held that knowledge of the expenditure was not enough to disentitle the plaintiff to a verdict.

Needless to say, sympathy, misplaced or otherwise, is generally accorded to the tenant in such cases, and it does not matter whether the encouragement is strong or slight. In *Doe d. Player* v. *Dashwood* (1851), 17 L.T. (o.s.) 125,501, a building tenant who had incurred a forfeiture by building more than a specified number of houses satisfied a jury that the landlord had sanctioned the breach "by allowing" him to "go on and finish," and the latter was held to have waived the forfeiture. The case is recorded rather than reported, and no statement of the evidence on which this finding was based is given. For, as the other authorities show, there must be more than mere "allowing" in the narrower sense of that word.

More complex were the facts of *North Stafford Steel, Iron & Coal Co. (Burslem) Ltd.* v. *Camoys (Lord)* (1865), 12 L.T. 780, which was an application by a mining company for relief, by way of injunction restraining ejectment, against admitted forfeiture, on the ground of expenditure encouraged by the lessor's agent. The causes of forfeiture were the failure to erect and construct a steam engine and to commence sinking two shafts, in the way specified in a forty-four-year mining lease, recently granted. The engine had, indeed, been built at the wrong place and time, and the shafts constructed were narrower than was specified, and one was sunk at a place not agreed, as the lease provided for. The delay was due to frost; this might not have helped the tenant company; but they were able to show not only that the landlord's agent knew of the change of plan, but that he had himself asked them to make the shaft farther from the landlord's homestead. This might not have been sufficient, as the new site had not been approved; but it was shown that while the shafts and plant were being constructed, the agent had offered to let land suitably near the new site for the purpose of works in connection with the enterprise. This was encouraging expenditure, and would entitle the plaintiffs to relief in equity; though mere standing by and not telling them they would incur forfeiture if they went on would not have this effect.

The principle applied in these cases is the same, fundamentally, as that underlying the doctrine of part performance. A is induced or allowed by B to alter his position on the faith of a contract with B; B is, in academic language, liable to be charged not upon the contract, but upon the equities resulting from his conduct. In the case of forfeiture the landlord's conduct in encouraging expenditure makes it unconscionable for him to deny the continuance of the relationship; in the case of an agreement for a lease unenforceable for lack of

documentary evidence, encouragement of expenditure on the faith of the agreement makes it unconscionable to deny the creation of the relationship. This may avail intending landlords as well as intending tenants; in *Rawlinson* v. *Ames* [1925] Ch. 96, it was an intending landlord who successfully sued for specific performance on these lines. The parties had agreed upon a twenty-one-year lease of a flat, which was to be substantially altered by the plaintiff; a letter from the defendant mentioned all necessary terms except the date when the term was to commence, which had, however, been verbally agreed. But since that letter alterations had been made and negotiations conducted for further alterations whenever the defendant changed her mind, which happened often; the plaintiff had always fallen in with suggestions when practicable, and it was on this that she was able to rely. For the work done by the plaintiff was referable not only to ownership but to the alleged contract; that is, her compliance with the defendant's request at her (the plaintiff's) expense was part performance.

Our County Court Letter.

THE REMUNERATION OF ESTATE AGENTS.

In a recent case at Scunthorpe County Court (*Glover & Co. Ltd.* v. *Slack*) the claim was for £13 10s. as commission on the letting of the defendant's shop. The plaintiffs' case was that (*a*) their representative had asked a third party if he knew of a shop in High-street, Scunthorpe, which would be suitable as a new branch for one of their clients; (*b*) the third party obtained the defendant's authority to put forward his property for consideration, as the existing lease was about to expire; (*c*) as a result, the premises were re-let for twenty-one years at a rent of £180 a year. The defendant denied that the plaintiffs were authorised to act as his agents, his case being that he had asked the third party, as a friend, to submit the property for consideration, but (as the shop was not vacant and he had had other enquiries) he had no reason to employ the plaintiffs or any other estate agent. His Honour Judge Langman held that the plaintiffs had not been authorised to act as the agents of the defendant, in whose favour judgment was accordingly given, with costs.

WIDOW'S LIABILITY FOR RENT ARREARS.

In *Richard Thomas and Co. Ltd.* v. *Marshall*, recently heard at Scunthorpe County Court, the claim was for possession of a house and £26 4s. 11d. as arrears of rent. The plaintiffs' case was that the arrears of rent had been owing by the defendant's late husband, upon whose death the defendant had become statutory tenant, and she was in the same position as if she were executor. His Honour Judge Langman observed that (1) if the defendant were the personal representative of her late husband, she could be sued as such, but she was not personally liable; (2) she was entitled to remain in possession, under the Rent Restrictions Acts, as long as she paid her rent, which she had done since her husband's death. Judgment was therefore given for the defendant, with costs.

LANDLORD'S LIABILITY FOR OUTSIDE REPAIRS.

In *Hoff* v. *Phillips*, recently heard at Leominster County Court, the claim was for £48 17s. 6d., and the counter-claim was for £50 for breaches of covenants contained in a lease. The plaintiff's case was that (1) in 1896, he had taken the premises on lease for ten years, and had thereafter been a yearly tenant until the 14th October, 1931; (2) owing to the premises not being fit to live in, he then had to move to a cottage, for which he paid £20 a year, until the 25th March, 1934—this rent being the amount claimed. The evidence of the plaintiff's architect was that, after the wet seasons and high winds of 1930 and 1931, the rain came through the roof, the eaves and water pipes were defective, the brickwork needed re-pointing, and the lack of outside repair had caused damage inside. Corroborative evidence was given by the medical officer of health, who had advised the borough council to take action, as the dampness rendered the premises not reasonably habitable. The defendant's case was that (*a*) since 1896 she had spent £102 on the interior and £169 on the exterior of the premises, and any internal dampness (in 1930) was due to lack of fires; (*b*) corroborative evidence was given by a decorator, who had received £51 10s. and £6 10s. for work done since 1929; (*c*) the report of the plaintiff's architect was unjust and inaccurate, and the present tenant (whose rent was £60 a year) was satisfied with the state of the premises. The plaintiff's defence to the counter-claim was that he would have done the inside repairs, under normal conditions, but it was useless to do so while there were structural defects. His Honour Judge Roope Reeve, K.C., dismissed the claim, and gave judgment on the counter-claim for £20 and costs.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

THE LIABILITIES OF YACHTSMEN.

In *Blackmore* v. *Houselander*, at Torquay County Court, an award was claimed on the following grounds: (1) While caretaker of the yacht "Allessie," the applicant was on board on the 6th December (in Brixham Harbour) at low tide, when she was kept upright by wooden "legs"; (2) one of these broke in a gale, and the applicant (who was on deck) fell over a belaying pin and sustained a rupture; (3) he was permanently incapacitated from lifting heavy weights or pulling ropes, and (as his wages had been 27s. 6d. a week) he was entitled to an award of 19s. 4½d. a week. The defence was that (*a*) the applicant did not see a doctor immediately after the accident, and did not complain of the injury until the 13th January; (*b*) as five weeks had then elapsed he had therefore not given notice of the accident as soon as practicable; (*c*) he was paid full wages until the termination of his employment in March. His Honour Judge The Hon. W. B. Lindley remarked that the applicant must have realised the seriousness of the accident within a few days, but had failed to give the necessary notice. Judgment was therefore given for the respondent, with costs.

HEART STRAIN NOT AN ACCIDENT.

In *Reakes* v. *Evercreech Lime & Stone Co. Ltd.*, at Wells County Court, an award was claimed in the following circumstances: (1) After many years' service with the respondents, as a stone getter in a quarry, the applicant had had to cease work (through shortness of breath) on the 30th March, 1933; (2) in November he had notified the respondents' manager of his claim, viz., £1 a week, as his average weekly wages were £2; (3) the evidence of the applicant's panel doctor was that the breakdown in health was due to exceptional strain. It was submitted that the notice of the accident had been given too late, but it was held that the failure to give notice was due to a mistake. The respondents' medical evidence was that the breathlessness was due to the state of the heart, which was a progressive condition extending over several years. After an examination of the applicant by the medical assessor, His Honour Judge Parsons, K.C., held that (1) the breakdown had nothing to do with the strain, or the work anything to do with the breakdown; (2) whatever the applicant's occupation, the heart trouble might have developed at any time. Judgment was given for the respondents, with costs on Scale B.

THE CERTIFICATES OF MEDICAL REFEREES.

In a recent case at Nottingham County Court a chargeman-onsetter (aged sixty-four) applied for an award in respect of an accident on the 4th November, 1924. Owing to a rupture (caused by a girder dropping across his groin) the applicant had since been unable to do any heavy lifting, but

had been found light work until the 9th January, 1932, when he was dismissed. On the 22nd December, 1933, the medical referee reported that the applicant had a small incomplete hernia on the left side, but that he was fit to do his ordinary work as chargeman on the pit bank. The applicant's case was that he was unable to obtain work, owing to his disability, and was still partially incapacitated. This was denied by the respondent colliery company, who contended that (1) the applicant had been discharged owing to reduction of staff; (2) the certificate of the medical referee was conclusive. His Honour Judge Hildyard, K.C., held that the matter did not rest with the medical referee's certificate, as (in the circumstances that had since arisen) there was the question of loss of earning capacity in the open market. An award was, therefore, made of 10s. a week from January, 1932, with costs.

Reviews.

Solicitors' Accounts and the Solicitors Act, 1933, and Rules made thereunder. By the Right Hon. Sir Dennis Herbert, K.B.E., M.P., and P. H. Blackwell, F.C.A., with a foreword by The Lord Plender, O.B.E., LL.D. 1934. Demy 8vo. pp. vii and (with Index) 141. London, Liverpool and Birmingham: The Solicitors' Law Stationery Society, Limited. 7s. 6d. net.

Sir Dennis Herbert needs no introduction to the profession, and, as a member of the Council of The Law Society, his interpretation of the new rules is particularly authoritative. Mr. Blackwell is a practising chartered accountant of long experience. This volume, which is the result of their combined labour, is a work that should be in the hands of all practising members of the profession and others who are interested in the accounting problems peculiar to solicitors. The authors appear to have anticipated the many problems which are likely to perplex solicitors, and they have dealt with them in a very thorough and explicit manner. The book explains in a very readable form the most practical manner in which solicitors may record their financial transactions in order to comply with the new rules regarding clients' moneys with the minimum expenditure of time and trouble. The necessary books are described and specimen rulings shown. There are practical notes on the recording of those items which form the basis of solicitors' bills, as well as a chapter dealing with the accounting and income tax problems arising on changes of partnership. The brief but adequate notes on the principles of double entry book-keeping are a distinctive feature and will prove of inestimable value to the majority of practising solicitors. The book also contains the text of the Solicitors Act, 1933, and the rules made thereunder, fully annotated and explained, and is complete with a model set of accounts and a comprehensive index. It is highly commended by Lord Plender, the eminent accountant, and undoubtedly will take its place as a standard work on the subject of solicitors' accounts. To those solicitors who already have an adequate system of book-keeping, as well as to those whose financial records are not all that can be desired, this book cannot fail to be of service.

Mr. Justice McCardie: A Biography. By George Pollock. 1934. Demy 8vo. pp. ix and (with Index) 298. With twelve illustrations. London: John Lane, The Bodley Head, Limited. 15s. net.

This outline of Mr. Justice McCardie stands in the space between a life and an impression, for though it follows the main events of the judge's career it is not strictly chronological and there are many digressions emphasising divers traits in his character. The chief value of this work lies in the copious examples of its subject's sayings and reflections which are scattered throughout its pages. These tell plainly of that active spirit which sometimes perhaps too challengingly pursued its own course no matter in what circumstances. As a sketch this book has merit, though while displaying the reverence of admiration it misses the quality of inspired insight which can turn a tribute into a revelation. This want may partly be due to the restraint of a literary style which has pitched what is essentially an appreciation in a low key perhaps better suited to biography. Nevertheless, this is a work of particular interest to all who were either attracted to Mr. Justice McCardie's personality or provoked by his ideas.

The Water Gipsies. By A. P. Herbert. Fourteenth Edition (Fountain Library), 1934. Crown 8vo. pp. 392. London: Methuen & Co., Limited. 2s. 6d. net.

On the eve of the long vacation and the beginning of the general holiday period Messrs. Methuen announced the establishment of a new half-crown library, which is named after Fountain-court in the Temple, and which, they state, will include some of the best work of popular authors. The first four volumes have been published, and one of these is Mr. Herbert's pleasant and entertaining novel, "The Water Gipsies," the popularity of which is shown by the fact that it has now reached its fourteenth edition.

Reversions and Life Interests. By H. J. Tappenden, F.I.A., 1934. Demy 8vo. pp. xii and 57. London: The Cambridge University Press. 7s. 6d. net.

This excellent little book deals with the practical application of the technical rules of valuation of reversions and life interests. There is a genuine demand for such a work among actuaries, but it should prove useful to family solicitors as well. It is concise, clear and comprehensive—three attributes eminently complementary, though rarely found together.

Kettridge's Shorter Commercial and Financial French Dictionary. By J. O. Kettridge, Officier d' Académie, F.S.A.A., F.C.I.S. 1934. Crown 8vo. pp. 288. London: George Routledge & Sons, Ltd. 5s. net.

If anyone who thinks he knows French thoroughly will take up this dictionary-encyclopædia, he will almost certainly be disillusioned about his own erudition and astonished at the author's. Ready reference and the widest range of information makes this a most valuable work.

Books Received.

The Public Authorities Protection Act, 1893. By J. J. Somerville, B.A. (N.V.I.), B.L. (Glas.), of Gray's Inn and the Northern Circuit, Barrister-at-Law. 1934. Demy 8vo. pp. xxiii and (with Index) 207. London: Sweet and Maxwell, Ltd. 15s. net.

German Commercial Policy. By Dr. Wilhelm Röpke. 1934. Demy 8vo. pp. viii and (with Index) 86. London: Longmans, Green & Co. 5s. net.

Tolley's Complete Income Tax, Sur-Tax, etc.: Chart-Manual of Rates, Allowances and Abatements. Nineteenth Edition, 1934-35. Compiled by Chas. H. Tolley, A.C.I.S., F.A.A., Accountant. London: Waterlow & Sons, Ltd. 3s. 6d., post free.

The Income Tax Digest with The Income Tax Act, 1922, and The Finance Act, 1934. By A. N. Aiyar, B.A., B.L., Advocate, High Court, Madras. 1934. Royal 8vo. pp. xl (with Table of Cases cited) and (with Index) 232. Supplement to the Income Tax Digest. pp. iv and 63. India: Company Law Institute, Madras, Rs.10. London: Sweet and Maxwell, Ltd. 18s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31 Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Compensation Agreement—Acknowledgment as to Documents constituting the Title of the Lord and of the Court Rolls.

Q. 3004. I act for the owner of a customary tenement in a manor and the amount to be paid to the lord for the extinguishment of the manorial rent and incidents has been agreed with the steward. In the compensation agreement I wish an acknowledgment inserted for production of the court rolls and also deeds showing the lord's title. The form of compensation agreement in the thirteenth schedule to the L.P.A., 1922, evidently contemplates an acknowledgment being given. The steward objects to any acknowledgment at all being given, and I shall be glad if you will kindly give me your views on the matter.

A. We express the opinion that the attitude of the steward is justified. A purchaser from our subscriber's client will not be able to call for the title of the lord (L.P.A., 1925, s. 44 (7)) and the court rolls will be available at any time under L.P.A., 1922, s. 144.

Mode of Sale pursuant to s. 5 of the Mortmain and Charitable Uses Act, 1891.

Q. 3005. A testatrix who died in November, 1928, devised certain freehold cottages to her trustees and the chairman for the time being of the Governesses Benevolent Institution upon trust (*inter alia*) to use the premises on the determination of the then existing tenancies for almhouses. The Board of Charity Commissioners made an order in October, 1929 extending the time for the sale of the property under s. 5 of the Mortmain and Charitable Uses Act, 1891, until all the tenancies under which the premises were let be determined. Certain of the cottages have become empty and re-let, whilst one of the original tenancies is still operative. Is the writer correct in assuming that the conveyance on sale of the properties to a purchaser will be by the trustees of the will (not joining the chairman of the Governesses Benevolent Institution) by virtue of s. 5 of the above-mentioned Act, or alternatively, as personal representatives on the assumption that s. 29, sub-ss. (1) and (2) of the S.L.A., 1925, is not applicable, the cottages having to be sold have never in fact been vested, or will be vested in trustees, for the above-mentioned charitable purpose. If this reasoning is correct is the writer correct in assuming that nothing has to be done with regard to enrolment notices, consents or otherwise, and all that has to be done is for the will to be recited, and that the trustees convey by virtue of their statutory powers under s. 5 of the above-mentioned Act, or alternatively, as personal representatives.

A. Section 5 of the Mortmain and Charitable Uses Act, 1891 (54 & 55 Vict., c. 73) in effect renders it impossible (save in certain cases) to give land by will for charitable purposes, since the land has to be sold. Only the proceeds of sale of land can be so given. The result is that land so given by will is at once impressed with an obligation to sell on trust for sale, and is not land vested or to be vested in trustees on or for charitable purposes. We express the opinion that the personal representatives should convey as such (under their statutory power) and that the trustees (including the individual who was the chairman of the institution at the date of the death of the testatrix) should, in obedience to s. 5 of the Mortmain and Charitable Uses Act, 1891, and as trustees, convey and confirm. We do not think that the consent of the Commissioners is needed. (See though not directly in point *Re Sidebottom* [1902] 2 Ch. 380.) In addition to the suggested recitals the Order of the Commissioners should be recited. No special formalities are necessary.

Covenant by a Parent to Pay an Annuity for Seven Years for the Benefit of his Infant Child if they both so long Live—Position as to Sur-tax and Income Tax.

Q. 3006. If a parent covenants to pay an annuity to trustees for the advancement and maintenance of an infant daughter residing with such parent, the duration of the annuity being for seven years, if the parent and daughter so long live, can the amount of the annuity so paid be deducted from the grantor's income for sur-tax purposes and can the daughter's trustees claim back the tax deducted from the annuity, provided her income qualifies for a re-claim.

A. The answer to both questions is in the negative. (See F.A., 1922, s. 20 (1) (*c*)). Our subscribers will find an article on the subject in our Vol. 76, No. 22, at p. 367.

Administration of Estates Act, 1925, s. 27 (1)—Scope of Protection Afforded by.

Q. 3007. A died in 1916, having by his will given his widow a life interest in his property and thereafter left it to his children as therein provided. The widow has died recently. One of testator's children, B, was a sailor, and was lost or missing from his ship in 1923. No application to the court to presume death was ever made, but probate of his will was granted out of a district probate registry to B's widow, and his estate was sworn at £120. The probate registrar apparently has power in the case of *small* estates, and if satisfied as to the evidence of death, to presume death and grant probate. The amount of the reversionary interest however now payable to B or his estate is around £800, and the question arises as to whether under the circumstances, the production of the probate is sufficient authority to pay over the same to B's widow, or whether the trustee of A, knowing the facts, can or should insist upon an application to the court being made to presume death before making payment to the widow. One of the shares is still settled, and therefore the estate is not being fully wound up, otherwise the usual notice to creditors and others would be inserted and might afford the trustee protection in case of B ever turning up again.

A. It is correct that in small estates (not exceeding £250) the registrars of the principal probate registry have power to give leave to presume death. The affidavit in support of the application has, *inter alia*, to state the value of the estate. On the assumption that an affidavit was made in this case, it must have been incorrect, as presumably the value of the reversionary interest must have been at the date of the death of B considerably in excess of £250. The leave to presume death was therefore made on a misapprehension of the true facts, and the trustee of A's will is aware of this misapprehension. It seems therefore doubtful whether the trustee of A's will would be acting in good faith within s. 27 (1) of A. of E. Act, 1925, if he paid over on the production of the probate. It thus appears that the trustee might not have the protection of this sub-section. We think that the trustee would be well advised to insist upon an application

being made to the court, or, in the alternative, to require an insurance against any risk he might run. In view of the fact that B died, or is supposed to have died, as long ago as 1923 a policy to cover the risk should be obtainable at a very reasonable figure.

Will—Option to Purchase after the Death of a Person who Predeceases the Testator—Construction and Effect.

Q. 3008. We are acting for the executors and trustees of J.H.R., who died on the 11th May, 1932, having by his will, dated the 22nd September, 1928, devised all his real and personal estate to his trustees upon trust for sale and upon trust to hold the proceeds of sale and to invest the same and pay the income to his wife for life with remainder to his children in equal shares. There is then a provision in the said will as follows: "After the death of my said wife I direct my trustees to give to my daughter L.B. the option for a period of one calendar month to purchase the house adjoining the house in which I now reside at the price equivalent to the district valuer's valuation thereof at the date of my death." The will also contains a provision as follows: "I particularly empower my trustees to postpone the sale of the house adjoining the house in which I now reside during the lifetime of my wife." The wife died during the lifetime of the testator, and L.B., the person entitled to exercise the option, is one of the two trustees of the will. A question has arisen as to whether the option is in fact exercisable owing to the fact that it could not be exercised within one month of the death of the testator's wife, as she had predeceased the testator, and moreover, the price of the property could not possibly be fixed until, at any rate, the death of the testator. We shall be greatly obliged if you could give us any authority which will throw light on the correct interpretation of the option contained in the will, and also let us have your opinion (*a*) As to whether the option is in fact exercisable at all; (*b*) if exercisable within what period ought L.B. to have elected to purchase the property; and (*c*) could L.B. elect to purchase the property at the district valuer's figure, although in fact that figure was not ascertained until some twelve months after the testator's death?

A. We regret that we have not been able to trace an authority that will throw any light upon the construction of this will. We would point out, however, that the will does not stipulate that the option is to be given immediately upon the death of the wife so as to run during the first calendar month after her death, and does not fix any time for the completion of the purchase. Further, it is quite possible for the option to be given before the actual cash price is known in a case where the means of ascertaining the price are fixed.

(*a*) We suggest that the trustees can now, and, indeed, should now, give the option, the terms of which will be that pursuant to the terms of the will they now give L.B. a calendar month's option to purchase the property at the valuation figure.

(*b*) The option must be exercised, of course, during its currency.

(*c*) This figure is, of course, now available, and this question does not therefore arise, but, as indicated above, it is, in our view, quite possible to give and exercise an option without an actual price, provided the means of ascertaining the price are fixed.

Quite apart from the question of the option, although L.B. happens to be a trustee for sale, it is open to her to buy up the *equitable* interests of her brothers and sisters in the property provided the price is fair, full disclosure of all material facts is made by her to them, and they are competently and independently advised in respect of the transaction. When she had acquired the whole equitable interest she could properly call for an assurance of the legal estate and terminate the trust for sale.

To-day and Yesterday.

Legal Calendar.

6 August.—"It is not usual with the Catholic gentry in Ireland to determine the religious destiny of their children, and being an eldest son born to an independence, the story of my having been intended for the Church is a pure fabrication. I was not born in the year 1774. Be it known to all whom it may concern that I was born on the 6th of August, 1775, the very year in which the stupid obstinacy of British oppression forced the reluctant people of America to seek for security in arms." Such was the account of his birth given by Daniel O'Connell, the greatest Irish advocate of his time, and his country's most vivid political personality.

7 August.—On the 7th August, 1613, "It was granted by the venerable convocation that Sir Thomas Fleming, Chief Justice of England, might be created M.A., but whether it was effected appears not." He died suddenly the same night in his bed, after entertaining his tenantry at his seat, Stoneham Park, in Hampshire. He was buried in the Parish Church of North Stoneham under a monument on which he was represented in judicial robes. An inscription declared that he had fifteen children, eight of whom were living. Coke says that he discharged his duties "with great judgment, integrity and discretion."

8 August.—On the 8th August, 1843, at the Stafford Assizes, Mr. Justice Maule thus addressed a prisoner convicted of stealing a gelding: "You have written me a letter in which you cite what you call a beautiful passage in Scripture from the 6th chapter of Proverbs: 'Then do not despise a thief if he steal to satisfy his soul when he is a hungered.' I have no doubt your beautiful passage will be very popular in the gaol . . . I think when you were reading your Bible you had better have stopped at the 20th chapter of Exodus, where you would have found these words: 'Thou shalt not steal' . . . If you ever come here again, the whole Book of Proverbs will not save you from transportation."

9 August.—On the 9th August, 1834, the question of the precedence of the Attorney-General before the Lord Advocate of Scotland arose in the House of Lords. The Lord Chancellor said he had no doubt that the Attorney-General should lead, even in Scotch cases, for, said he, if the Lord Advocate led in some cases and not in others "it would be a very extraordinary grant; it would be like giving to a peer the rank of a marquis in all marriage processions, but directing the marquis to go behind the barons in all funeral processions."

10 August.—On the 10th August, 1830, Bridget Brennan and four accomplices were tried at the Kerry Assizes for the murder of her husband. One of the murderers, who turned King's Evidence, told a horrible story. Bribed with £40 by the wife and her lover, he and another man had waylaid Brennan on his way to Mass. One of them asked him for grazing for his cow for a short time. Brennan replied that though the place was fully stocked he could not refuse a friend and neighbour. Thereupon, one of his murderers cried, "That shan't serve you, you scoundrel," and they immediately strangled him. The jury returned a verdict of guilty.

11 August.—On the 11th August, 1664, John L'Isle, formerly President of Cromwell's High Court of Justice, was shot dead at Lausanne.

12 August.—On the 12th August, 1910, Mr. Justice Walton died suddenly at his country house at Shinglestreet, near Woodbridge. He had been a judge since 1901, having been appointed to the King's Bench Division when Sir James Mathew was promoted to the Court of Appeal. Although his judicial performance did not quite fulfil the promise displayed by his career at the Bar, he proved a good judge, especially in commercial matters.

THE WEEK'S PERSONALITY.

From the very outbreak of the Civil War John L'Isle, barrister, of the Middle Temple, used all his energy on the Parliamentary side, and from the beginning he shared in the plunder available from the sale of Crown property. When the King was a prisoner he was one of the commissioners who carried to him the four bills which were to divest him of all sovereignty. He took a prominent part in the trial of the unfortunate Charles, was present every day and drew up the form of sentence. As one of Cromwell's creatures, he became a commissioner of the Great Seal and a member of the Council of State. He administered the oath to his master as Protector, was appointed President of the High Court of Justice, the arbitrary tribunal set up by the revolutionary government to deal with its enemies, and was called to the newly established house of peers. When the promise of the Restoration dawned this ardent republican fled to Switzerland. At Lausanne he "charmed the Swiss with his devotion," and was treated with such high consideration that an infuriated Irish Royalist, seeing a regicide treated with so much honour, shot him dead on his way to church on the 11th August, 1664. He was buried with great ceremony in the city.

HANDWRITING HEREDITY.

One of the handwriting experts called in the "poison pen" case at the Winchester Assizes follows the same profession which made his father eminent. Indeed, his father was so well known in his day that Mr. Justice Gorrell Barnes once observed in the course of a case: "I have noticed during the trial an expert in handwriting of great experience, Mr. Gurrin. I feel sure that had it been possible to point out any difference between the signature in the register and the handwriting in the letters, I should have seen that gentleman in the box. . . . His absence is a remarkable feature in the case." The same profession affords another example of son following father in the case of the Nethercliffes, a relationship which the great Hawkins once played on in cross-examining the senior expert. "You educated your son to your own profession, I believe, Mr. Nethercliffe?" "I did, sir. I hope there was no harm in that, Mr. Hawkins." "Not in the least; it is a lucrative profession. Was he a diligent student?" "He was." "And became as good an expert as his father, I hope?" "Even better, I should say, if possible." "I think you profess to be infallible, do you not?" "That is true." "And your son, is he as infallible as you?" "Certainly." "In Lady D—'s case, did not your son swear one way and you another? It seems strange that two infallibles should contradict one another." It was perhaps a little unfair to dangle so tempting a bait as infallibility before any expert.

THE ADOLF BECK CASE.

During the case at Winchester, reference was made in the cross-examination of Mr. Gurrin, junior, to the evidence of Mr. Gurrin, senior, in the Adolf Beck trial. Two series of frauds on women had taken place, the first in 1877, and the second in 1894-5. Of the first, a man called Wyatt or Smith had been convicted at a period when Beck was in Peru. Of the second series of crimes Beck was accused, and at his trial in 1896, ten women identified him as the man who had cheated them. Mr. Gurrin gave evidence that in his opinion the writing on the various papers connected with the frauds was in the prisoner's hand disguised. Now the papers connected with the earlier case were in court, and the writing on them was manifestly identical with that in the present case. If, therefore, Beck's absence in Peru in 1877 could have been proved, his acquittal would have been assured, but when it was proposed to cross-examine the expert on this point, the Crown successfully objected. As Mr. Gurrin afterwards said: "The second part of my evidence as to the identity of the 1877 and the 1896 writings being identical and which was manifest to anyone was, I regret to say, not taken." So Beck went to prison. In 1904 he was again arrested on a similar charge and convicted on similar evidence, but an identical fraud committed while he was in custody awaiting sentence and, therefore, in possession of a watertight alibi, led to rehabilitation, "pardon" and compensation.

Obituary.

SIR J. B. MATTHEWS, K.C.

Sir John Bromhead Matthews, K.C., J.P., died at Tunbridge Wells on Sunday, 5th August, in his seventieth year. He was educated at Doncaster Grammar School, and was admitted a solicitor in 1887, obtaining honours in the final examination. In 1890 he was called to the Bar by the Inner Temple, and he joined the North-Eastern Circuit. Admitted to the Bar of the Straits Settlements in 1891, he became Attorney-General of the Bahamas in 1907 and Attorney-General of the Straits Settlements in 1909. In 1910 he was appointed Chief Justice of the Bahamas, but he resigned the following year. He took silk in 1909, and received the honour of knighthood in 1911. Sir Bromhead was Chairman of the East Surrey Court of Referees, a Magistrate for Kent, and Chairman of the Tunbridge Wells Bench.

MR. S. R. PRESTON-HILLARY.

Mr. Stanley Richard Preston-Hillary, solicitor, of Stratford, died on Thursday, 26th July, in his seventy-eighth year. Mr. Preston-Hillary was admitted a solicitor in 1879, and started to practise at Stratford. In 1894 he was joined by Mr. Harry Jones, and they had been in partnership ever since under the name of Messrs. Prestons, of Stratford.

MR. A. H. WOOD.

Mr. Alfred Henry Wood, retired solicitor, died at Wokingham on Monday, 6th August, at the age of seventy-two. Mr. Wood, who was admitted a solicitor in 1887, was a partner in the firm of Messrs. A. H. Wood & Haynes, of Torquay.

Notes of Cases.

House of Lords.

Coventry Corporation *v.* **Surrey County Council.**

Lord Blanesburgh, Lord Warrington, Lord Atkin, Lord Thankerton and Lord Wright. 19th July, 1934.

POOR LAW—SETTLEMENT—CHILD—ADOPTION—IRREMOVABILITY OF CHILD—ADOPTION OF CHILDREN ACT, 1926.

The main questions for consideration in this appeal were whether an illegitimate child adopted by a man and his wife under the Adoption of Children Act, 1926, either acquired a poor law settlement under s. 93 (4) and s. 86 (1) of the Poor Law Act, 1930, by reason of residence with the adopters, as they contended, in which case the child's settlement would be in the County Borough of Leicester, or whether as the respondents contended the child's settlement followed the settlement of his natural mother, in which case it was in the County Borough of Coventry. By consent a special case was stated for the opinion of the High Court. The Divisional Court were of opinion that the poor person had acquired a settlement in the City and County Borough of Leicester by residence therein with the adopters for upwards of three years, and ordered the order of removal to be quashed. On appeal by the Surrey County Council (the present respondents) the Court of Appeal, following the decision in *Ward* v. *Dorman Long & Co., Ltd.* [1933] 2 K.B. 658, allowed the appeal and

reversed the decision of the Divisional Court. The Coventry Corporation now appealed.

Lord ATKIN, in giving judgment, said that Surrey was clearly not the poor person's place of settlement, and the question arose whether he was settled at Coventry as the settlement of his mother, or at Leicester as a settlement acquired by himself by residence with his adopted parents. The dispute arose as to the effect of the Adoption of Children Act, 1926, on the Poor Law Act, 1930. The effect of the decision under appeal was to disregard the formation of the family ties created by adoption and to revive for an adopted family the former scandals that attached to breaking up a natural family. He was glad to think that the House were in agreement that the Adoption of Children Act, 1926, avoided the serious consequences to which he had referred. It was to be observed that the Act did not put the adopter and the child into the position of natural parent and child for all purposes. But as to the matters enumerated in sub-s. (1) of s. 5, namely, custody, maintenance and education, it did in the plainest language transfer from the natural parent to the adopter the whole of the rights and obligations that flowed from parenthood and placed the child in the same position as though he were the natural child of the adopter. He (his lordship) was of opinion that the appeal should be allowed and the order of the Divisional Court restored. But it was impossible to leave the case without a reference to the case of *Ward* v. *Dorman Long & Co.*, *supra*, the decision in which the Court of Appeal followed the present case, repeating and adopting the same reasoning. The reasons given for that decision appeared to be faulty, and he thought that it was wrongly decided and should be overruled. The present appeal, therefore, would be allowed and the order of the Divisional Court restored, and the respondents must pay the costs of the appeal in that House and below.

The other noble and learned lords concurred.

COUNSEL: *J. F. Eales*, K.C., and *H. W. Wightwick*; *R. M. Montgomery*, K.C., and *W. B. Manley*.

SOLICITORS: *Sharpe, Pritchard & Co.*, for *Vernon Younger*, Coventry; *Field, Roscoe & Co.*, for *H. A. Pritchard*, Leicester.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Boyce (Inspector of Taxes) *v.* Whitwick Colliery Co. Ltd.

Lord Hanworth, M.R., Slesser and Romer, L.JJ.
19th and 20th June, 1934.

REVENUE—COLLIERY—WATER—LOCAL AUTHORITY—PLANT FOR SUPPLY—YEARLY PAYMENTS—INCOME TAX—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Schedule D.

Appeal from a decision of Finlay, J.

The Company agreed with a local council to provide plant enabling it to use surplus water from the colliery workings; the execution was to be under the direction and to the satisfaction of the council's surveyor. The cost was £9,476 11s. 9d., and it was arranged that the council should pay a yearly sum for water supplied, £316 a year (a thirtieth of the original outlay), and 5 per cent. per annum on the amount of the original cost remaining unpaid. When the agreement terminated at the end of thirty years the plant was to be the company's property unless meanwhile it had ceased to work the colliery. Under the agreement it was liable to keep the plant in repair, and if it failed to supply the water the council could enter and obtain it. Finlay, J., held that the yearly sums of £316 were payable solely in consideration of water supplied and subject to income tax under Sched. D.

Lord HANWORTH, M.R., allowing the appeal, said that the capital outlay was made by the company solely to supply the council with water and not for the colliery business. The payment was in respect of capital as appeared from the provision as to the payment of 5 per cent. interest (see *Foley* v. *Fletcher*, 3 H. & N. 769). The yearly payments were not liable for income tax.

COUNSEL: *Needham*, K.C., and *Scrimgeour*; *The Attorney-General* (Sir Thomas Inskip, K.C.), and *R. Hills*.

SOLICITORS: *Savage Cooper & Wright*, agents for *Wright, Woodrow & Aysom*, of Leicester; *Solicitor of Inland Revenue*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Van den Berghs Ltd. *v.* Clark (Inspector of Taxes).

Lord Hanworth, M.R., Slesser and Romer, L.JJ.
26th, 27th and 28th June, 1934.

REVENUE — INCOME TAX — COMPANIES — POOLING AGREEMENT—SHARING OF PROFITS AND LOSSES—SUM PAID TO TERMINATE AGREEMENT—RECEIVED INTO CIRCULATING CAPITAL—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. D.

Appeal from a decision of Finlay, J.

In 1909 the company entered into a pooling agreement with a rival concern, whereby the profits and losses of both should be shared in proportion to the yearly average profit. The duration of this arrangement was subsequently agreed to be extended to 1940. In 1925 disputes arose as to the adjustment of accounts, the company alleging a considerable sum to be due to it. In 1927 it was arranged that the agreements should be terminated, the company being paid in cash £450,000 as damages in consideration of consenting. This sum was credited in the company's accounts for that year. Finlay, J., held this sum to be a payment for future rights in the nature of a capital asset, and so not to be reckoned among profits for the purposes of income tax under Sched. D.

Lord HANWORTH, M.R., allowing the appeal, said that the agreements were not for the purchase of a capital asset. This point depended on whether the sum was received into the company's fixed or circulating capital. (See *Anglo-Persian Oil Co.* v. *Dale* [1932] 1 K.B. 124.) It must be reckoned in computing the company's profits for the purposes of income tax.

SLESSER and ROMER, L.JJ., agreed.

COUNSEL: *The Attorney-General* (Sir Thomas Inskip, K.C.) and *R. Hills*; *Latter*, K.C., and *C. King*.

SOLICITORS: *Solicitor of Inland Revenue*; *Goulden, Mesquita and Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Geo. Trollope & Sons *v.* Martyn Bros.

Scrutton, Greer and Maugham, L.JJ.
25th June and 16th July, 1934.

AGENCY—PURCHASER FOUND FOR PROPERTY—"SUBJECT TO CONTRACT"—VENDOR'S REFUSAL TO COMPLETE—AGENT'S CLAIM.

Appeal from a decision of Horridge, J. (78 SOL. J. 174).

The defendants wished to sell certain real property, and the plaintiffs, as their agents, sought a purchaser. On the 21st April, 1933, the plaintiffs wrote to the defendants; "With reference to our conversation on the telephone to-day, we confirm your acceptance of the offer made by . . . Major Howard to purchase the freehold of this property, subject to contract, for the sum of £20,500 . . . We take this opportunity of confirming that in the event of the sale materialising, we shall look to you for payment of the usual scale of commission." On the 24th April, the defendants wrote confirming that letter. The proposed purchaser was ready to complete and assented to the terms of contract sent by the defendants' solicitors. However, on the 23rd May, the defendants declared that they would not proceed. The plaintiffs claimed damages alleging that the defendants had prevented them from earning their commission. Horridge, J., held that they were so entitled.

SCRUTTON, L.J., delivered a dissenting judgment.

GREER, L.J., dismissing the appeal, said that when the purchaser had assented to the vendor's terms, the plaintiffs had completed the work they had undertaken. There was an implied undertaking by the defendants that after the plaintiffs had completed their work, they would not deprive them of the fruits of their labour by refusing without just cause to complete the transaction (see *Hamlyn & Co.* v. *Wood & Co.* [1891] 2 Q.B. 488, at p. 491).

MAUGHAM, L.J., agreed.

COUNSEL: *P. B. Morle; S. R. Sidebottom.*

SOLICITORS: *Swepstone, Stone, Barber & Ellis; Trollope, Winckworth, Crump & Sprott.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Dickens: Dickens *v.* Hawksley and Others.

Bennett, J. 6th and 7th June and 23rd July, 1934.

COPYRIGHT—WILL—"PRIVATE PAPERS"—PROPERTY IN MANUSCRIPT—PROCEEDS OF SALE OF COPYRIGHT—COPYRIGHT ACT, 1911 (1 & 2 GEO. 5, c. 46), ss. 17 and 24.

The testator, Charles Dickens, who died in 1870, bequeathed "all my private papers whatsoever and wheresoever" to Georgina Hogarth, who died in 1917. He had composed for his children a work known in his family as "The Life of Our Lord," and during his lifetime he had allowed a few copies to be made from the manuscript for certain members of his family. In 1934, Lady Dickens, the executrix of his will and of that of Georgina Hogarth, assigned the copyright to the Associated Newspapers Limited. Mr. Justice Bennett having decided that the making of the copies did not take the manuscript out of the class of "private papers," the question arose whether the proceeds of sale of the copyright should be held on the trusts of the will of Georgina Hogarth or fall into the residuary estate of Charles Dickens.

BENNETT, J., in giving judgment, said that under the law in force, before the Copyright Act, 1911, the gift of the manuscript did not operate as a gift of the copyright (*Miller* v. *Taylor*, 4 Burr. 2303, at p. 2396). S. 24 and the First Schedule of the Act did not give property to someone who had no right to it before, and s. 17 only applied to testamentary dispositions becoming effective after the Act came into force. The proceeds of sale fell into the testator's residuary estate.

COUNSEL: *The Hon. Charles Russell; Croom-Johnson*, K.C., and *Francis James; Evershed*, K.C., and *Macgillivray.*

SOLICITORS: *Hempsons; Field, Roscoe & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Pateras and Others *v.* Royal Exchange Assurance.

Roche, J. 20th July, 1934.

INSURANCE, MARINE—TOTAL LOSS—VESSEL CAST AWAY—LOSS BY INNOCENT MORTGAGEES—ONUS OF PROOF.

In this action the plaintiffs claimed under a policy of marine insurance in respect of the total loss of a steamer, the "Sappho." The policy was issued on the 26th August, 1931, and covered the risk of total loss by perils of the sea for a year from that date. The defendants subscribed the policy for £2,050, the total amount of the insurance being £14,250 on hull and machinery and £3,100 on freight. In June, 1932, the "Sappho" left an Algerian port with a cargo of phosphates for Stettin. On the night of the 9th June, as she was proceeding northward along the coast of Portugal in weather which was said to be dark and hazy, she ran on to an island near the Burlings group and became a total loss. The first four plaintiffs, a father and three sons, of the name of Pateras, were owners of the steamer, and lived in the island of Chios; the other plaintiffs were C. Michalos and Co., Ltd., a company whose registered office was in London, which held a mortgage on the steamer. The defendants contended that the vessel had been cast away, but no charge whatever was made against the mortgagees.

ROCHE, J., said that the claim was for a loss by peril of the sea, and the defence was that the loss was due to the misconduct of the owners. He wished to say emphatically that no charge of misconduct was made against the mortgagees, who were the second plaintiffs. Since, however, the case of *Samuel* v. *Dumas* [1924] A.C. 431, it had been clear that if a ship were wilfully thrown away no one, not even an innocent mortgagee, could recover anything, because in such a case the loss was not by a peril of the sea as defined in the Marine Insurance Act, and was therefore not a peril insured against. A question had arisen with regard to the onus of proof, and in his view the law as to onus was correctly stated by Bankes, L.J., in *Compania Martiartu* v. *Royal Exchange Assurance Corporation* [1924] A.C. 850. He had come definitely to a conclusion adverse to the plaintiffs. After giving this case most anxious consideration, he had come to the conclusion that the explanation of this loss was not accident, but design. He was satisfied that the ship was deliberately cast away. That being so, none of the plaintiffs could recover anything under the policy.

COUNSEL: *Sir Robert Aske*, K.C., and *H. L. Holman*, for the plaintiffs; *Miller*, K.C., and *W. L. McNair*, for the defendants.

SOLICITORS: *Holman, Fenwick & Willan; William A. Crump & Son.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Bevis *v.* Bevis.

Langton, J. 31st July, 1934.

DIVORCE—WIFE'S PETITION FOR DISSOLUTION—HUSBAND'S ADMISSIONS CONTAINED IN DISCRETION STATEMENT IN FORMER SUIT—EVIDENTIARY VALUE OF DISCRETION STATEMENTS—STATEMENTS NOT AVAILABLE IN SUBSEQUENT PROCEEDINGS—PRINCIPLES OF NATURAL JUSTICE—PUBLIC POLICY.

This was a wife's undefended suit for divorce which raised important questions as to the scope and availability of discretion statements. In 1932 the husband had petitioned for divorce on the ground of the wife's alleged adultery with a named man. The suit was defended and on 12th December, 1933, the President found that no adultery had been committed by the wife and the co-respondent and dismissed the husband's petition. In that suit the husband asked for the discretion of the court and had lodged the usual statement setting out his own adultery. The admissions contained in that statement were the foundation of the present petition by the wife.

LANGTON, J., in the course of delivering a considered judgment said, that the case raised a somewhat curious point. The evidence of adultery against the respondent consisted in the main, if not totally, of the admissions by him in his statement filed in the original suit in which he asked for the exercise of the discretion of the court. The case therefore, raised the question what was the evidential value of statements of that character and of admissions contained therein. There had long been a practice that persons asking for the exercise of the discretion were bound to place before the court the material facts, but it was not until the decision of Lord Merrivale in *Apted* v. *Apted and Bliss* [1930] P. 246, 74 SOL. J. 338, that the procedure was laid down of a petitioner's filing a detailed statement of the facts on which the court was asked to exercise its discretion and the grounds on which the petitioner relied. Since then that practice had been invariably followed, and he (his lordship) had personally

found it useful and salutary. But he was certain that Lord Merrivale, when he laid down the practice, did not imagine that a statement of that character and admissions contained in it would be employed as admissions in another case. It would be a somewhat singular inversion of the court's intention if facts which were put before the court for one purpose in one case were sought to be used in another case for a totally different purpose. Those who filed discretion statements were called on to make them for the guidance of the court. The court should see that any matters of fact contained in such an obligatory statement should not be used against the party making them outside the proceedings in which they were specifically made. It was against his (his lordship's) ideas of natural justice that it should be otherwise. Further, if the statements lodged in discretion cases could be taken as admissions to all the world, it would open a wide door to collusion. Very little ingenuity on the part of people who were minded to put a false case before the court would be required to use those admissions quite unscrupulously. It would be perfectly simple for the parties to agree that the husband should put on record a statement of that kind; then the suit would be allowed to lapse, and the wife would come forward in another suit and say: "I have admissions made by my husband in previous proceedings," and the court would have no way of testing or knowing on what material the suit was launched. It would be most impolitic and against the interests of justice to allow discretion statements to be used in the way desired. If it were known that statements of that kind could be used for such a purpose they might fail in their candour in the original suit. The wife, therefore, could not obtain a decree without further evidence. At her counsel's request the hearing would be adjourned to enable him to adduce further evidence, or to appeal, if that course were thought proper.

COUNSEL: *Noel Middleton* for the petitioner.

SOLICITOR: *Ernest A. Kite.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

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Societies.

Berks, Bucks and Oxfordshire Incorporated Law Society.

The annual general meeting of the Berks, Bucks and Oxfordshire Incorporated Law Society was held at The Bull's Head Hotel, Aylesbury, on Wednesday, the 4th July, when the following members were present: Mr. J. C. B. Gamlen (President), Mr. S. E. Wilkins (Vice-President), and Messrs. H. L. C. Barrett, H. R. Blaker, J. H. Coales, A. J. Clarke, H. C. Dryland, E. C. Durant, J. M. Eldridge, H. M. Edwards, C. M. R. Peecock, C. E. A. Redhead, F. J. Ratcliffe, F. W. R. Sale, R. D. R. Sale, C. F. Schnadorst, J. C. St. L. Stallwood, J. H. Tayler, W. J. Winter-Tayler, E. Woodward and E. W. Brain (Secretary).

In moving the approval of the accounts, which showed balances in hand on the general account of £162 19s. 2d. cash and £303 17s. 1d. India 3 per cent. Stock, and on the benevolent fund account of £9 10s. cash (being income) and £100 3½ per cent. War Stock (capital), the Vice-President stated he considered the accounts showed a satisfactory state of affairs as, in spite of the expense of the Provincial Meeting, there was a substantial balance in hand.

The President submitted to the meeting the report of the committee for the year ended the 25th March last, and this was approved on the motion of Mr. E. Cecil Durant, seconded by Mr. H. C. Dryland. In speaking on the motion, Mr. H. R. Blaker stated that he thought the report an excellent one in every way and he thanked the committee for the kind reference to himself contained in the report.

The Secretary next proposed in accordance with notice that a donation of £10 10s. be made out of the Society's funds in the name of Mr. J. C. B. Gamlen, the President of the Society, to the Solicitors' Benevolent Association, and in moving the resolution referred to the steps which had been taken by the committee to endeavour to increase the membership of the Association. The Secretary said that although there had been a generous response to the special appeal made last year on the occasion of the Association's seventy-fifth anniversary, many more members were needed, and referred to the fact that on the instructions of the committee he had marked with an asterisk in the list of members appearing in the Society's annual report those who were also members of the Association. The Secretary also referred to the President and the very capable way in which he had carried through the arrangements for the Provincial Meeting held at Oxford last September, which had been one of the most successful meetings held in recent years. In seconding the resolution, Mr. H. C. Dryland endorsed the Secretary's remarks, and on the motion being put to the meeting it was unanimously carried.

Mr. E. Cecil Durant then proposed, Mr. A. J. Clarke seconded, and it was unanimously resolved that Mr. S. E. Wilkins, of Aylesbury, be elected President for the ensuing year, Mr. H. C. Dryland, of Reading, Vice-President, and Mr. E. W. Brain, of Reading, Secretary and Treasurer. In speaking on the motion, Mr. W. J. Winter-Tayler expressed the thanks of the High Wycombe Law Society to the retiring President, Mr. J. C. B. Gamlen, for the work done by him on behalf of the Society during the past year. The President, in reply, thanked Mr. Winter-Tayler for his kind remarks. Messrs. S. E. Wilkins and H. C. Dryland also suitably replied and thanked the meeting for the confidence reposed in them.

On consideration of the question of the election of nine members of the Society to act with the President, Vice-President and Secretary and Treasurer, the Secretary reported that he had received letters of resignation from Mr. H. Jordan and Mr. W. Bliss. On the motion of Mr. E. Cecil Durant, seconded by Mr. W. J. Winter-Tayler, the following members were elected members of the Committee for the ensuing year: Messrs. H. T. Baines, H. L. C. Barrett, H. R. Blaker, R. P. Clarke, J. M. Eldridge, J. C. B. Gamlen, J. Moorwood, F. J. Ratcliffe and E. Woodward. Mr. E. Woodward, in thanking the meeting for electing him a member of the Committee, stated that it was the first Annual Meeting which he had attended, and he was particularly impressed by the friendly spirit which prevailed amongst the members of the Society.

The President next proposed, Mr. H. C. Dryland seconded, and it was unanimously resolved that the fixing of the time and place of the next Annual General Meeting be left to the Committee.

On consideration in accordance with notice of the question of appointing a local committee of the Solicitors' Benevolent Association and a representative to serve on the Standing Council of such Association, it was proposed by Mr. E. Cecil Durant, seconded by Mr. W. J. Winter-Tayler and unanimously resolved that the Society's Committee be appointed such Local Committee for the ensuing year, and that the new President, Mr. S. E. Wilkins, be appointed the Society's representative to the Standing Council for the same period. In speaking on the motion, Mr. H. L. C. Barrett stated that he considered it was the duty of all solicitors to endeavour to obtain new members of the Association, and that he hoped the time would soon come when only those members of the Society who were not members of the Association would be marked with an asterisk in the list of members appearing in the Society's Annual Report.

Mr. E. Cecil Durant referred to the recent death of Mr. John Edward Gale, of Windsor, who was an old member of the Society, and suggested that the meeting would like to send a message of sympathy to Mr. Gale's son who was continuing the practice carried on by his late father. This suggestion

was unanimously adopted, and the Secretary was instructed to write accordingly.

The President next stated that although the business mentioned in the agenda was concluded, he had a further item to bring forward. He went on to say that during his year of office he had felt that the Society lacked a President's badge of office, and that he had, therefore, taken upon himself the responsibility of having one designed, and made, incorporating the arms of Berkshire, Buckinghamshire and Oxfordshire, and which he had much pleasure in presenting to the Society as a memento of his year of office. The President then handed the badge to the Vice-President, who in reply thanked the President for his generous gift and went on to say that he considered the Society owed a debt of gratitude to Mr. Gamlen not only for presenting the badge to the Society, but also for the way in which he had carried out the duties of President during his year of office. He added that he would like to congratulate the President on the success of the present meeting, and that during the ensuing year he himself would endeavour in the capacity of President to do all he could to further the Society's interests in every way.

The meeting closed with a vote of thanks to the retiring President.

The Society of Public Teachers of Law.

The twenty-sixth annual meeting of the Society was held, on the invitation of the University College of South Wales and Monmouthshire, at Cardiff, on Friday and Saturday, 13th and 14th July, under the Presidency of Dr. Arnold D. McNair (University of Cambridge).

The meeting discussed various aspects of law reform.

In his presidential address on "Law Teaching and Law Reform," Dr. McNair emphasised the importance of that large area of law reform which concerned the general principles of law and equity, as contrasted with specialised branches of the law, for which there already existed in the government departments or vocational organisations bodies for setting in motion the necessary machinery of reform. In the recently-established Law Revision Committee there had come into being a piece of machinery capable of being established as a permanent organ for the revision and overhaul of the general law, provided that there was insistence on that machinery being kept in motion.

The teacher of law could do much to create the necessary professional public opinion in favour of reform, the absence of which had been one of the causes of our backwardness in this matter. It was also important to introduce the student to some portion of comparative law, so as to afford a contrast between our system and those of other countries.

In the discussion which followed, Professor H. C. Gutteridge, K.C. (University of Cambridge) regretted that failure had hitherto met the attempt to establish an Imperial School of Law in London, which would foster advanced studies, and assist the formation of enlightened public opinion on projects for reform. With the marked increase in the number of law students who had no intention of entering the legal profession, an important change was coming over the teaching of law.

On Friday afternoon a paper was read by Professor Hughes Parry (University of London) on "Modern Methods of Law Reform." He pleaded for a revival of the Statute Law Revision Committee, both for the revision and consolidation of statute law. By welcoming the Lord Chancellor's Law Revision Committee, he felt that the method of reference, confined, as it was, to subjects laid before it by the Lord Chancellor, was too limited, and that opportunities might be given to bodies, such as the Society, to offer suggestions of the topics to be considered by the Committee. In addition to a need for systematic reform of obvious legal anomalies and anachronisms, there was need for the development of a satisfactory technique in the application of legislation to particular circumstances. This new technique would involve in particular the blending of the legal mind with the specialist knowledge.

Professor Goodhart (University of Oxford) spoke on "Law Reform in the United States." Although the chief problem at the present time was the proper administration of the criminal law, this was more a police than a legal problem. The difficulty was the arrest of the criminal owing to the size of the country and the division of the States. In the civil law the chief problem was the uncertainty and the complexity of the common law. The Law Institute was now attempting to re-state the law. The cost of this work was over $2,000,000. There was a remarkable development at the present time in the study of law in the United States, there being over 180 law schools with more than 40,000 students.

On Friday afternoon the members of the Society were entertained at a Civic Reception by the Lord Mayor and Lady Mayoress of Cardiff.

Professor R. W. Lee, Vice-President elect, in reply to the Lord Mayor's speech of welcome, said that it was the aim of law teachers to see that in this country the gap between law and reason should never be very wide, not nearly so wide as in some other countries.

Later the Society entertained at dinner the Lord Mayor of Cardiff, Principal J. F. Rees, Mr. J. T. Richards (President of the Cardiff Law Society), Mr. A. C. Macintosh, Mr. J. J. Jackson, Mr. Edward Williamson, the Deputy Lord Mayor, Mr. D. Kenyon Rees (Town Clerk of Cardiff), and Professor Herman Kantorowicz. Among others present were Dr. A. D. McNair (President), in the chair, Professor R. A. Eastwood (President elect), Professor R. W. Lee (Vice-President elect), Professor Sir Maurice Amos, K.C., Professor H. C. Gutteridge, K.C., Professor H. F. Jolowicz, Professor A. L. Goodhart, Sir Benjamin Lindsay, Professor J. D. I. Hughes, Professor D. Hughes Parry, Professor H. Goitein, Professor T. A. Levi, Dr. D. T. Oliver, Dr. R. Y. Hedges, Dr. H. Potter, Dr. W. I. Jennings, Dr. W. W. Veale, Mr. H. A. Hollond, and Mr. E. C. S. Wade (Hon. Secretary).

The President, proposing the health of the guests, said that, speaking as a former articled clerk and practising solicitor, he could not emphasise too strongly his belief in the value of the educational training to be derived by the articled clerk from close personal contact with his principal. He regarded that relationship as indispensable to professional education. Members of the Society were at one with him in agreeing that nothing should be done to imperil that relationship; but he believed that members of the Profession appreciated the additional academic training.

Replying with the Lord Mayor to the toast of "The Guests," Mr. J. T. Richards (President of the Cardiff Law Society) said that he viewed with apprehension the marked increase in the number of young practitioners entering the profession, particularly in South Wales, and he was glad to note that some limitation on the excessive numbers was apparently being imposed by the examining authorities. He welcomed the academic training of articled clerks as it had developed at Cardiff and Swansea, as raising the standard of professional education.

The toast of "The Society" was proposed by Principal J. F. Rees, who expressed the hope that in the not too distant future a Faculty of Law might be established at Cardiff. Professor R. A. Eastwood, in replying, referred to the difficulties encountered in developing a law school in the modern universities.

Professor R. A. Eastwood (University of Manchester) and Professor R. W. Lee (University of Oxford and the Council of Legal Education) were elected President and Vice-President for the ensuing year. Mr. E. C. S. Wade (University of Cambridge and The Law Society's School of Law) and Mr. P. A. Landon (University of Oxford and The Law Society's School of Law) were re-elected Hon. Secretary and Hon. Treasurer.

The arrangements for the meeting were made by Mr. C. E. P. Davies (University College of South Wales and Monmouthshire) assisted by a local committee.

Rules and Orders.

THE SUPREME COURT FUNDS (No. 1) RULES, 1934. DATED JULY 24, 1934.

I, the Right Honourable John Viscount Sankey, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury, and in pursuance of the powers contained in section 146 of the Supreme Court of Judicature (Consolidation) Act, 1925, and every other power enabling me in this behalf, propose to make the following Rules:—

1. In these Rules a Rule referred to by number means the Rule so numbered in the Supreme Court Funds Rules, 1927, as amended.

2. In paragraph (2) of Rule 5, the words "and, in matters in Lunacy the placing on deposit of the funds" shall be inserted after the word "lodged."

3. Rule 28 shall be revoked, and the following Rule shall be substituted therefor, and shall stand as Rule 28:—

"28.—(1) In the King's Bench, and Probate, Divorce and Admiralty Divisions, the Schedule to Orders to be acted upon by the Accountant-General shall be drawn up in accordance with Form No. 11 and shall contain all particulars necessary to be known by him.

(2) The Solicitor having the carriage of the Order shall prepare and lodge the Schedule with the proper officer of the Central Office, District, Probate, Divorce or Admiralty Registry, Official Referee, Clerk of Assize or Associate, as the case may be.

(3) A copy of the Schedule, and any amendment thereof, duly authenticated and signed by a Master, Registrar, Official Referee, Clerk of Assize or Associate, shall be sent by the proper officer to the Accountant-General, and the copy so sent shall be the Accountant-General's authority for giving effect to the operations directed therein."

4. In paragraph (1) of Rule 44 the words " or to a claim under the Fatal Accidents Acts, 1846 to 1908 by the widow of the person killed " shall be inserted after the words " unsound mind."

5. These Rules may be cited as the Supreme Court Funds (No. 1) Rules, 1934, and the Supreme Court Funds Rules, 1927, as amended, shall have effect as further amended by these Rules.

And I, the said John Viscount Sankey, Lord High Chancellor of Great Britain, with the same concurrence as aforesaid, hereby certify that on account of urgency these Rules should come into immediate operation, and hereby make the said Rules to come into operation forthwith as Provisional Rules.

Dated the 24th day of July, 1934.

Sankey, C.

George F. Davies } Lords Commissioners of
Walter J. Womersley } His Majesty's Treasury.

Legal Notes and News.

Honours and Appointments.

The Colonial Office announce that the King has been pleased to approve the appointment of Mr. Roger Evans Hall, Judge of the High Court of Northern Rhodesia, to be Chief Justice, Uganda, in succession to Mr. Sidney Solomon Abrahams whose appointment as Chief Justice of Tanganyika was announced recently.

The Archbishop of Canterbury has appointed Sir Philip Wilbraham Baker-Wilbraham, Bt., to be Official Principal of the Arches Court of Canterbury, Master of the Faculties, and Vicar-General of the Province of Canterbury, vacant by the resignation of Sir Lewis Dibdin, D.C.L. Sir Philip was called to the Bar by Lincoln's Inn in 1901.

Mr. W. Maurice Mell, LL.M., solicitor, Deputy Town Clerk of West Hartlepool, has been appointed Town Clerk of Hartlepool. Mr. Mell was admitted a solicitor in 1930.

Mr. V. Younger, solicitor, Deputy Town Clerk of Coventry, has been appointed Clerk to the Harrow Urban District Council. Mr. Younger was admitted a solicitor in 1922.

Mr. Cyril H. W. Pugh, M.A., B.C.L. (Oxon), solicitor, of Oswestry, has been appointed Clerk to the Oswestry County Bench of Magistrates. Mr. Pugh, who was admitted a solicitor in 1919, is Clerk to the Borough Justices and to the Oswestry Rural District Council.

Mr. Charles W. G. T. Kirk, LL.B. (Lond.), solicitor, of Worthing, has been appointed Clerk to Farnborough (Hants) Urban District Council. Mr. Kirk was admitted a solicitor in 1931.

Mr. William James Knight, Legal and Committee Clerk of the Town Clerk's Department, Barking, has been appointed Assistant Clerk in the office of the Clerk of the Brentwood Urban District Council.

Wills and Bequests.

Captain Daniel George Symonds, solicitor, of Greenhill, Weymouth, left £21,431, with net personalty £20,894.

Mr. Sydney George Edridge, O.B.E., solicitor, of Croydon, left £8,958, with net personalty £7,971.

Mr. Robert Edger, solicitor, of Rugby, left £8,280, with net personalty £8,257.

Mr. Reginald Eaton Ellis, solicitor, of Chancery-lane, and of Ealing, left £7,941, with net personalty £4,935.

Mr. Percy Leigh Pemberton, solicitor, of Westminster, left £89,662, with net personalty £76,930.

DEPARTMENT OF HEALTH FOR SCOTLAND.

The Secretary of State for Scotland has appointed Mr. G. H. Henderson, at present General Inspector, to be an Assistant Secretary in the Department of Health for Scotland, and Mr. T. C. W. Mitchell to be head of branch. Mr. Henderson will have charge of the Public Assistance, Local Government, and Public Health (Environmental Services) Division, and Mr. Mitchell will be attached to the Housing Division.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 16th August, 1934.

	Div. Months.	Middle Price 8 Aug. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	112¼	3 11 3	3 4 3
Consols 2½%	JAJO	80⅜	3 1 11	—
War Loan 3½% 1952 or after	JD	104⅜	3 7 1	3 3 7
Funding 4% Loan 1960-90	MN	115¼	3 9 5	3 2 8
Victory 4% Loan Av. life 29 years	MS	113¾	3 10 4	3 5 3
Conversion 5% Loan 1944-64	MN	119⅛	4 3 11	2 11 11
Conversion 4½% Loan 1940-44	JJ	111¼	4 0 11	2 9 2
Conversion 3½% Loan 1961 or after	AO	105	3 6 8	3 4 5
Conversion 3% Loan 1948-53	MS	101⅓xd	2 19 1	2 17 3
Conversion 2½% Loan 1944-49	AO	97⅞	2 11 1	2 13 6
Local Loans 3% Stock 1912 or after	JAJO	92¾	3 4 8	—
Bank Stock	AO	367½	3 5 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	84	3 5 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	91½	3 5 7	—
India 4½% 1950-55	MN	112½	4 0 0	3 9 5
India 3½% 1931 or after	JAJO	93	3 15 3	—
India 3% 1948 or after	JAJO	80½	3 14 6	—
Sudan 4½% 1939-73 Av. life 27 years	FA	116	3 17 7	3 11 4
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	3 3 10
Tanganyika 4% Guaranteed 1951-71	FA	111	3 12 1	3 2 4
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	110	4 1 10	2 19 9
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 13 11
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	100	3 15 0	3 15 0
Canada 4% 1953-58	MS	107xd	3 14 9	3 9 10
Natal 3% 1929-49	JJ	98	3 1 3	3 3 5
New South Wales 3½% 1930-50	JJ	97½	3 11 10	3 14 2
New Zealand 3% 1945	AO	98	3 1 3	3 4 5
Nigeria 4% 1963	AO	109	3 13 5	3 10 0
Queensland 3½% 1950-70	JJ	98	3 11 5	3 12 0
South Africa 3½% 1953-73	JD	104	3 7 4	3 4 3
Victoria 3½% 1929-49	AO	99	3 10 8	3 11 10
W. Australia 3½% 1935-55	AO	98	3 11 5	3 12 8
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	91	3 5 11	—
Croydon 3% 1940-60	AO	98	3 1 3	3 2 3
Essex County 3½% 1952-72	JD	104	3 7 4	3 4 1
*Hull 3½% 1925-55	FA	101	3 9 4	—
Leeds 3% 1927 or after	JJ	91	3 5 11	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	103	3 8 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	78xd	3 4 1	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	91¼xd	3 5 7	—
Manchester 3% 1941 or after	FA	91	3 5 11	—
Metropolitan Consd. 2½% 1920-49	MJSD	96xd	2 12 1	2 16 8
Metropolitan Water Board 3% "A" 1963-2003	AO	92	3 5 3	3 5 11
Do. do. 3% " B " 1934-2003	MS	93xd	3 4 6	3 5 1
Do. do. 3% " E " 1953-73	JJ	98	3 1 3	3 1 10
Middlesex County Council 4% 1952-72	MN	111	3 12 1	3 3 8
‡ Do. do. 4½% 1950-70	MN	115	3 18 3	3 5 7
Nottingham 3% Irredeemable	MN	91	3 5 11	—
Sheffield Corp. 3½% 1968	JJ	104	3 7 4	3 6 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	109	3 13 5	—
Gt. Western Rly. 4½% Debenture	JJ	117⅓	3 16 7	—
Gt. Western Rly. 5% Debenture	JJ	127	3 18 9	—
Gt. Western Rly. 5% Rent Charge	FA	126½	3 19 1	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	125½	3 19 8	—
Gt. Western Rly. 5% Preference	MA	113	4 8 6	—
Southern Rly. 4% Debenture	JJ	106	3 15 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	107½	3 14 5	3 11 5
Southern Rly. 5% Guaranteed	MA	125½	3 19 8	—
Southern Rly. 5% Preference	MA	113	4 8 6	—

*Not available to Trustees over par. ‡Not available to Trustees over 115.
†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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